

COMMODITY FUTURES TRADING COMMISSION

**SEMIANNUAL REPORT  
OF THE**

**OFFICE OF THE  
INSPECTOR GENERAL**



FOR THE PERIOD ENDING SEPTEMBER 30, 2008



**U.S. COMMODITY FUTURES TRADING COMMISSION**

Three Lafayette Centre  
1155 21st Street, NW, Washington, DC 20581  
Telephone: (202) 418-5110  
Facsimile: (202) 418-5522  
[www.cftc.gov](http://www.cftc.gov)

Office of the  
Inspector General

November 3, 2008

TO: Walter L. Lukken  
Acting Chairman

FROM: A. Roy Lavik  
Inspector General

ARL

SUBJECT: Semiannual Report of the Office of the Inspector General

Attached is the Semiannual Report of the Office of the Inspector General for the period from April 1, 2008 through September 30, 2008. This report is submitted to you in accordance with the requirements of Section 5 of the Inspector General Act of 1978, as amended.

I appreciate your continuing support of this office.

Attachment

OFFICE OF THE INSPECTOR GENERAL  
COMMODITY FUTURES TRADING COMMISSION

SEMIANNUAL REPORT  
FOR THE PERIOD FROM  
April 1, 2008 THROUGH September 30, 2008

**TABLE OF CONTENTS**

INDEX OF IG ACT REPORTING .....	iii
EXECUTIVE SUMMARY .....	1
INTRODUCTION .....	2
CFTC Programs and Operations.....	2
OIG Responsibilities.....	2
OIG Resources.....	3
COMPLETED AUDITS and REVIEWS .....	4
Audit of Compliance with the Federal Managers' Financial Integrity Act, FMFIA .....	4
Evaluation of the CFTC Information Security Management Act, FISMA .....	4
Review of Agency Use of Contractors .....	4
CURRENT AUDITS and REVIEWS .....	5
Audit of CFTC Financial Statements for Fiscal Year 2008. ....	5
AUDIT REPORTS and REVIEWS OVER SIX MONTHS OLD .....	7
Corrective Action not Completed.....	7
Corrective Action Completed.....	7
Management Decision not Made.....	7
INVESTIGATIONS .....	7
Investigation Regarding the Interagency Task Force on Commodity Markets Interim Report on Crude Oil. ....	8
OIG Response to Allegations Regarding the Transit Subsidy Program.....	8
OIG Response to Allegations Regarding CFTC Contracts. ....	8
SUMMARY OF MATTERS REFERRED TO PROSECUTORIAL AUTHORITIES.....	9
CONGRESSIONAL INQUIRIES .....	9
LEGISLATIVE, REGULATORY AND RULE REVIEWS .....	9
Introduction and Summary. ....	9
Rule Reviews Initiated in Previous Reporting Periods. ....	9

Rule Reviews Initiated this Reporting Period.....	9
Legislative Activities.....	10
OTHER REVIEWS .....	10
Peer Reviews.....	10
Other Reviews.....	10
SUMMARY OF EACH REPORT MADE TO THE AGENCY HEAD .....	11
REVISED MANAGEMENT DECISIONS.....	11
INSPECTOR GENERAL DISAGREEMENT.....	11
GAO LIAISON.....	11
STRATEGIC PLAN FOR THE OFFICE OF THE INSPECTOR GENERAL .....	12
Investigative Agenda .....	12
Legislative and Regulatory Review Agenda .....	12
Audit Agenda.....	13
Introduction .....	13
Annual Audits.....	13
Other Audits .....	14
Resources Required .....	15
CONTACTING THE OFFICE OF THE INSPECTOR GENERAL .....	15
Table 1 – Reports Issued with Questioned Costs .....	16
Table 2 – Reports Issued with Recommendations.....	17

<b>INDEX OF IG ACT REPORTING REQUIREMENTS</b>
---

Section 4(a)(2) ..... Review of legislation and regulations.....9

Section 5(a)(1) ..... Significant problems, abuses and deficiencies..... 1

Section 5(a)(2) ..... Recommendations with respect to significant problems.....1

Section 5(a)(3) ..... Significant recommendations that have not been completed.....7

Section 5(a)(4) ..... Matters referred to prosecutorial authorities.....9

Section 5(a)(5) ..... Summary of instances where information was refused.....11

Section 5(a)(6) ..... Completed audit reports.....4

Section 5(a)(7) ..... Significant audit reports.....4

Section 5(a)(8) ..... Statistical Table—Questioned Costs..... 16

Section 5(a)(9) ..... Statistical Table—Funds Recommended for Better Use.....17

Section 5(a)(10) ..... Audit reports lacking management decision.....7

Section 5(a)(11) ..... Significant revised management decisions.....11

Section 5(a)(12) ..... Significant management decisions where the IG disagrees.....11

Section 5(a)(13) ..... Information described under the Federal Financial Management  
..... Improvement Act of 1996.....6

Section 6(b)(2) ..... Summary of reports to Chairman where assistance was refused.....11

## EXECUTIVE SUMMARY

This semiannual report is issued by the Commodity Futures Trading Commission's (CFTC's) Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended. It summarizes OIG's activities and accomplishments for the period April 1, 2008, through September 30, 2008. During this period, OIG completed one audit, one evaluation and one review, and began one audit. OIG completed one investigation and responded to various allegations of wrongdoing. OIG also responded to Congressional inquiries, commented to Congressional staff on pending legislation, reviewed rules proposed by CFTC and by regulated entities, participated in training, monitored peer review activities, visited CFTC field offices and participated in Government-wide OIG professional and cooperative meetings and activities.

Highlights of OIG's completed and ongoing audit, evaluation and investigative projects include the following:

- OIG completed the fiscal year (FY) 2008 audit of compliance with the Federal Managers' Financial Integrity Act (FMFIA). No significant issues were reported.
- OIG completed the FY 2008 Federal Information Security Management Act (FISMA) independent evaluation. No significant issues were reported.
- OIG completed a review of the Agency's use of contract employees. While no significant issues were reported, OIG made recommendations that may improve the operational effectiveness of the CFTC information technology help desk.
- At the request of four U.S. Senators, OIG completed an investigation into allegations of wrongdoing pertaining to the Interagency Task Force on Commodity Markets Interim Report on Crude Oil issued in July 2008. While no misconduct was found, OIG criticized the means of providing relevant information. The disclosures were not transparent and raised questions sufficient to give rise to the suspicions that triggered the Senators' request.
- OIG responded to discrete allegations pertaining to the CFTC transit subsidy program. The evidence did not warrant referrals to the Agency or law enforcement for further action.
- OIG responded to allegations pertaining to CFTC contracts. No referrals were made to the Agency or to law enforcement.

# INTRODUCTION

## **1. CFTC Programs and Operations.**

Congress created the Commodity Futures Trading Commission in 1974 as an independent agency with the mandate to regulate commodity futures and options markets in the United States. The Commission's mandate was renewed and/or expanded in 1978, 1982, 1986, 1992 and 1995. In December 2000, the Commission was reauthorized by Congress and the President through Fiscal Year 2005 with the passage of the Commodity Futures Modernization Act of 2000 (CFMA). In May of 2008, Congress reauthorized the CFTC through Fiscal Year 2013.

The CFMA transformed the CFTC from a front-line regulatory agency to an oversight regulator. The CFTC continues to be responsible for fostering the economic utility of futures markets by encouraging their competitiveness and efficiency, ensuring their integrity and protecting market participants against manipulation, abusive trade practices and fraud. Through effective oversight regulation, the CFTC enables the commodity futures markets better to serve their vital function in the nation's economy – providing a mechanism for price discovery and a means of offsetting price risks.

The CFTC operating divisions are: Office of the Chairman, Office of the Executive Director, Office of General Counsel, Division of Clearing and Intermediary Oversight, Division of Enforcement, Division of Market Oversight and Office of the Chief Economist. In addition to its headquarters office in Washington, DC, the CFTC maintains offices in Chicago, Illinois; Kansas City, Missouri; and New York, New York.

## **2. OIG Responsibilities.**

The Office of the Inspector General in the Commodity Futures Trading Commission was created in accordance with the Inspector General Act of 1978 (P.L. 95-452), as amended. OIG was established to create an independent unit to:

- Promote economy, efficiency and effectiveness in the administration of CFTC programs and operations and detect and prevent fraud, waste and abuse in such programs and operations;
- Conduct and supervise audits and, where necessary, investigations relating to the administration of CFTC programs and operations;

- Review existing and proposed legislation, regulations and exchange rules and make recommendations concerning their impact on the economy and efficiency of CFTC programs and operations or the prevention and detection of fraud and abuse; and
- Keep the Chairman and Congress fully informed about any problems or deficiencies in the administration of CFTC programs and operations and provide recommendations for correction of these problems or deficiencies.

OIG is required to conduct, supervise and coordinate audits of CFTC programs and operations in accordance with generally accepted government auditing standards. OIG is also required to recommend changes to existing and proposed CFTC programs and operations to promote economy, efficiency and effectiveness and to prevent and detect fraud and abuse.

The purpose of OIG audits generally is to ensure that:

- Funds have been expended in a manner consistent with related laws, regulations and policies;
- Resources have been managed effectively and efficiently;
- Stipulated program objectives have been achieved;
- Agency operations have not been subject to improper influence or corruption; and
- Resources have been safeguarded.

OIG operates independently of the Agency and has not experienced any interference from the CFTC Chairman in connection with the conduct of any investigation or audit, and our investigations have been pursued regardless of the rank or party affiliation of the target. OIG has also conducted audits without interference where it has perceived the opportunity to recommend improvement to futures regulation efforts, again without regard to the party affiliation of any Chairman.<sup>1</sup> No Chairman has interfered with OIG decisions regarding personnel actions, training, travel or other expenditures, including the selection of an independent accounting firm to conduct required CFTC financial statement audits.

### **3. OIG Resources.**

OIG consists of the Inspector General, the Assistant Inspector General for Audits, an Attorney-Advisor and a secretary. The present Inspector General assumed his position on October 7, 1990. The Assistant Inspector General joined the office in 1999, and the Attorney-Advisor joined in 2007.

---

<sup>1</sup> The Inspector General Act of 1978, as amended, states: "Neither the head of the establishment nor the officer next in rank below such head shall prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation...." 5 U.S.C. App. 3 sec. 3(a).

## COMPLETED AUDITS and REVIEWS

### 1. Audit of Compliance with the Federal Managers' Financial Integrity Act, FMFIA.

In support of OMB Circular A-123 (Revised), the Inspector General evaluates, provides technical assistance and advises the agency head as to whether the agency's review and evaluation process was conducted in accordance with the circular's requirements.

#### Status.

OIG reviewed all of the draft internal control reviews produced by agency staff and provided comments to the originating divisions. OIG offered its services to the CFTC Internal Control Committee as advisor and consultant on conducting and reporting on vulnerability assessments and internal control reviews. OIG reported the results of its review of the final submissions to the Chairman in its annual assurance letters to the Chairman.

### 2. Evaluation of the CFTC Information Security Management Act, FISMA.

The Federal Information Security Management Act requires the Inspector General or his designee to perform annual independent evaluations of the information security program and practices of the agency.

#### Status.

To provide a comprehensive review of the Commission's security program, Office of Information Technology Services (OITS) and OIG worked jointly in gathering and interpreting information relating to the CFTC information security program. Using the information supplied by OITS staff, a contractor and the program managers, the Inspector General reviewed and analyzed the information and responded in tabular form to the questions raised by the OMB Guidance. Results of this effort were transmitted to the CFTC's Chief Information Officer (CIO) in September 2008, for combination with the CIO's assessment and inclusion in the Chairman's report to OMB.

### 3. Review of Agency Use of Contractors.

The objectives of this review were to:

- 1) Determine whether the Agency has effectively employed contractors to complement its staff; and
- 2) Present the Chairman with a complete picture of the Agency's use of contractors.

## Status.

We examined summary information on 65 of the Agency's existing contracts and found nothing to indicate that contract employees were performing inherently governmental tasks. We chose to examine in detail the two largest Agency contracts resulting in the greatest influx of contract employees to ensure that these tasks could not be performed by Agency employees at lesser cost. Both contracts provided information technology (IT) services. We therefore limited our objectives to analysis of their application to these two IT services contracts. We did not audit compliance with the Federal Acquisition Regulation as it would apply to the contract award process for these two contracts.

In the two contracts that we examined in detail, we found the Agency effectively supplemented its full-time staff with contractors. The Agency was able to acquire skilled software development talent that reduced development time for several major computer surveillance systems for the futures and options markets. In another contract, we found that the Agency has improved its delivery of help-desk services to Agency employees. For one of the contracts, we recommended improving the selection of contractors; greater use of former help-desk talent to communicate CFTC specific "fixes" (i.e., modifications to existing software) to the contract employees; and greater monitoring and use of the help-desk logs to identify opportunities for delivering specific assistance to Agency employees, as well as contract employees.

## **CURRENT AUDITS and REVIEWS**

### **1. Audit of CFTC Financial Statements for Fiscal Year 2008.**

#### Objectives.

In FY 2002, Congress passed the Accountability of Tax Dollars Act. The Act requires the CFTC, along with numerous other Federal entities, to obtain an independent financial statement audit each year. To this end, OIG has engaged a contractor to provide the audit effort required to enable the contractor to render an opinion on the agency's financial statements for Fiscal Year 2008 in accordance with generally accepted auditing standards, Government Auditing Standards and OMB Bulletin 01-02.

The specific objectives of this audit include determinations whether:

- (1) The financial statements present fairly the financial position of the Commodity Futures Trading Commission in accordance with generally accepted accounting principles (GAAP) as promulgated by the Federal Accounting Standards Advisory Board (FASAB). The five financial statements, along with all corresponding notes to be audited include: (a) Balance Sheet; (b) Statement of Net Cost; (c) Statement of Changes in Net Position; (d) Statement of Budgetary Resources; and (e) Statement of Custodial Activity.
- (2) Management's assertions about the effectiveness of its internal controls for achieving internal control objectives described in AU Section 319 and the Federal Managers

Financial Integrity Act (FMFIA) are fairly stated in all material respects. The contractor makes this determination in part by obtaining an understanding of the internal control policies and procedures and assessing the level of control risk relevant to all significant cycles, classes of transactions, and account balances. For those significant control policies and procedures that have been properly designed and placed in operation, the contractor performs sufficient tests to provide reasonable assurance as to whether the controls are effective and working as designed.

The independent public accountant (IPA) limits its internal control testing to those controls necessary to achieve the objectives described in OMB Bulletin 01-02. Further, the IPA is not required to test all internal controls relevant to operating objectives as broadly defined by the FMFIA, such as those controls relevant to achieving efficient operations.

With respect to internal controls related to performance measures reported in the accountability report, the IPA obtains an understanding of the design of significant internal controls relating to the existence and completeness assertions, as required by OMB Bulletin 01-02. The procedures are not required to provide assurance on internal controls over reported performance measures.

(3) The agency has complied with selected provisions of laws and regulations identified by OMB Bulletin 01-02 or the Inspector General, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. The IPA limits its tests of compliance to these provisions and need not test compliance with all laws and regulations applicable to the CFTC.

#### Status.

An independent public accounting firm was first selected on January 15, 2004 to complete the CFTC Financial Statement Audits for up to five successive years. On March 10, 2008 the Fiscal Year 2008 audit began with a meeting with senior agency managers. Further meetings and reviews have taken place throughout this reporting period while work on the audit is ongoing. The final audit report is to be delivered to the Office of the Inspector General in November 2008.

The IG Act and the Federal Financial Management Improvement Act of 1996 (FFMIA) require the Inspectors General of certain agencies to report "instances and reasons" when the Agency has not met intermediate target dates established in a remediation plan to bring the Agency's financial management system into substantial compliance with the Act. CFTC is not subject to the requirements of the FFMIA; however, it voluntarily seeks to comply with its requirements. During this reporting period, there were no events giving rise to a duty to report under FFMIA.

## AUDIT REPORTS and REVIEWS OVER SIX MONTHS OLD

### 1. Corrective Action not Completed.

There were no instances of audit reports over six months old where corrective action had not been completed.

### 2. Corrective Action Completed.

There were no instances of reports issued before the commencement of the reporting period for which corrective action had been completed by the end of the reporting period. We understand the Agency is working to implement recommendations included in the Review of Agency Use of Contractors.

### 3. Management Decision not Made.

There is one instance of a report issued before the commencement of the reporting period for which a management decision had not been made by the end of the reporting period. In 2006, the CFTC OIG issued a report titled "Review of the Need for a Western Regional Office in Los Angeles." That report recommended, among other things, that the Commission review the feasibility of reestablishing the former Los Angeles field office. That recommendation was not carried out largely due to budget constraints. In January 2008, partially in response to a Congressional inquiry, CFTC OIG updated its analysis and on March 12, 2008, issued a follow-up report which reiterated the earlier recommendation. While the 2006 recommendations are over six months old, the March report is barely over six months old. During the reporting period, we understand that the Agency took steps to gather information and assess the feasibility of implementation of the recommendation in the March 2008 report.

## INVESTIGATIONS

The Inspector General Act of 1978, as amended, provides that the Inspector General may receive and investigate complaints or information from the Commission's employees and other sources concerning the possible existence of an activity constituting a violation of law, rules or regulations, or mismanagement, abuse of authority, or gross waste of funds, or a substantial and specific danger to the public health and safety.

No investigations were pending as of the beginning of the reporting period. One investigation was opened and completed during this period, and two other preliminary investigations were opened and closed during this reporting period.

**1. Investigation Regarding the Interagency Task Force on Commodity Markets Interim Report on Crude Oil.**

During this reporting period, CFTC OIG began and concluded an investigation into allegations of wrongdoing in connection with the July 22, 2008 Interagency Task Force on Commodity Markets (ITF) Interim Report on Crude Oil (Interim Report). Four U.S. Senators questioned whether the Interim Report was based on inaccurate data, incomplete information and flawed analysis. The four Senators also asked whether the Interim Report was issued improperly in order to influence a Senate vote. Because the Senators did not allege violations of specific criminal or civil statutes or regulations, CFTC OIG conducted this investigation as an administrative investigation.

CFTC OIG reviewed numerous drafts of the Interim Report on Crude Oil, as well as relevant supporting data and materials. CFTC OIG also interviewed 44 individuals to ascertain whether the information and analysis used was inaccurate, incomplete, or flawed in any way. CFTC OIG asked the interviewees if they were aware of the relevant Senate vote, and also probed whether the report's conclusions were inappropriately influenced by the CFTC Chairman, the CFTC Chief Economist, or any other influence inside or outside the CFTC.

CFTC OIG concluded that the evidence did not support the concerns about the substance of the report. We did conclude that the Agency was remiss in failing to disclose certain facts relating to the Interim Report with sufficient transparency. As a result of this action, the reliability of the Interim Report was called into question and the concerns raised by the Senators were well founded. The CFTC OIG transmitted detailed results of this investigation to the four Senators on September 11, 2008.

**2. OIG Response to Allegations Regarding the Transit Subsidy Program.**

CFTC OIG received allegations regarding different aspects of the transit subsidy program at CFTC Headquarters. Due to the idiosyncratic nature of the allegations, a full description could reveal the identity of the target(s) and possibly the source(s) of the allegations. No referrals were made to the Agency or law enforcement authorities for further action.

**3. OIG Response to Allegations Regarding CFTC Contracts.**

CFTC OIG received allegations regarding performance and other issues relating to Agency contracts. One preliminary investigation was completed; a second allegation, which appeared solely to allege a potential legal dispute, was referred to the Office of General Counsel.

## SUMMARY OF MATTERS REFERRED TO PROSECUTORIAL AUTHORITIES

No matters were referred to prosecutorial authorities during the reporting period.

## CONGRESSIONAL INQUIRIES

OIG fielded multiple requests for assistance from members of Congress and staff during the reporting period. Issues addressed included constituent concerns and recent OIG activities. In addition, OIG received the previously discussed request for and concluded its investigation concerning allegations relating to the Interagency Task Force on Commodity Markets Interim Report on Crude Oil.

## LEGISLATIVE, REGULATORY AND RULE REVIEWS

### 1. Introduction and Summary.

As specified in Section 4(a)(2) of the Inspector General Act of 1978, OIG reviews the impact of existing and proposed legislation and regulations on CFTC programs and operations and makes recommendations regarding more effective or efficient alternatives or protections against fraud and abuse. OIG also reviews all exchange rule proposals circulated to senior staff at CFTC.

OIG notified the responsible Divisions as to any concerns with draft and final documents relating to legislation, rules or investigations. Formal comments were not filed with the Commission during this reporting period.

### 2. Rule Reviews Initiated in Previous Reporting Periods.

There were no rule reviews initiated in previous reporting periods which were continued into this reporting period.

### 3. Rule Reviews Initiated this Reporting Period.

No rule reviews were initiated during this reporting period.

#### 4. Legislative Activities.

OIG tracked legislation impacting programs and operations of the CFTC, and made contact with Congressional staff concerning various agency and IG issues as appropriate. OIG reviewed and began implementing procedures to meet website requirements imposed on Inspectors General by the FY 2008 Consolidated Appropriations Act. In addition, OIG continued to track the proposed Inspector General Reform Act of 2008, Senate Bill 2324. The IG serves on the legislation committee for the Executive Council on Integrity and Efficiency, which comments on proposed amendments to the IG Act and other legislation affecting the IG community.

## OTHER REVIEWS

#### 1. Peer Reviews.

An important function in each Agency OIG is the peer review process. The Inspector General community's annual report, *A Progress Report to the President, Fiscal Year 2007*,<sup>2</sup> described the processes for audits and investigative peer reviews as follows:

*Government Auditing Standards* require that audit organizations conducting audits of Federal agencies undergo peer reviews every 3 years. The IG community has implemented a process to meet this requirement. The purpose of the peer review is to determine whether the reviewed audit organization's internal quality control systems are adequate and provide reasonable assurance that applicable auditing standards, policies and procedures are met.

Similarly, investigative peer reviews are conducted to ensure compliance with the requirements of the *Quality Standards for Investigations* and determine whether adequate internal safeguards and management procedures exist to ensure that law enforcement powers are properly exercised.<sup>3</sup>

During this reporting period, OIG continued to monitor the government-wide OIG peer review schedules as communicated by the Executive Council on Integrity and Efficiency. OIG discussed scheduling issues with our partner OIG offices as appropriate. No peer reviews were begun or completed during this reporting period.

#### 2. Other Reviews.

No other review activity took place during this reporting period.

---

<sup>2</sup> <http://www.ignet.gov/randp/fy07apr.pdf>.

<sup>3</sup> Id. at p.19.

## **SUMMARY OF EACH REPORT MADE TO THE AGENCY HEAD**

No reports were made to the Agency head under section 6(b)(2) concerning information or assistance unreasonably refused or not provided (mandated under section 5(a)(5) of the Act).

## **REVISED MANAGEMENT DECISIONS**

No management decisions were revised during the reporting period.

## **INSPECTOR GENERAL DISAGREEMENT**

The Inspector General did not disagree with any management decisions on OIG recommendations during the reporting period.

## **GAO LIAISON**

OIG is charged with providing policy direction for, and conducting, supervising, and coordinating audits and investigations relating to CFTC programs and operations. In addition, OIG is required to recommend policies for, and conduct, supervise, and coordinate with other Federal agencies, state and local governmental agencies, and nongovernmental entities, audits, investigations, and evaluations regarding the economy, efficiency, and effectiveness of CFTC programs and operations.

GAO also conducts audits of CFTC activities, and OIG plans its audits so as not to duplicate GAO's efforts. Moreover, OIG in its audit activities identifies the goals of each audit and the methods of reaching the goals so as to minimize the requirements placed on CFTC resources.

# STRATEGIC PLAN FOR THE OFFICE OF THE INSPECTOR GENERAL

## **1. Investigative Agenda.**

The Inspector General Act of 1978, as amended, provides that the Inspector General may receive and investigate complaints or information from the Commission's employees concerning the possible existence of an activity constituting a violation of law, rules or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

OIG has to date conducted only a reactive investigative program chiefly relying on unsolicited employee complaints as the source of investigative leads. However, allegations and complaints are also received from the general public and Congress. This reactive program has resulted in only a handful of investigations per year. This strategy was followed because OIG believed that an independent regulatory agency such as the CFTC, without grant money or substantial contracts to award, was not likely to generate a substantial investigative workload.

To insure that employee complaints could easily reach OIG, a 24-hour hotline was established in February 1993 to receive complaints. The hotline phone number is (202)418-5510.

Because of the necessarily reactive nature of OIG's investigative program, no investigative agenda has been established.

## **2. Legislative and Regulatory Review Agenda.**

Because of the importance of this activity in a financial and economic regulatory agency, OIG reviews proposed and final CFTC regulations, legislation and selected exchange rules using six basic criteria: Whether the agency: (1) has identified specifically the problem(s) to be addressed by the proposal; (2) has defined through case study or data analysis a clear link between the proposed solution and the identified problem(s); (3) has specified clearly the means to effectively and efficiently enforce the proposal; (4) has assessed the likely efficiency and effectiveness of alternative solutions; (5) can reasonably document that the proposal will yield positive net benefits over the long term; and (6) has met the requirements of the Regulatory Flexibility Act and the Paperwork Reduction Act.

The Regulatory Flexibility Act requires the agency to evaluate the impact of its regulations on small entities. The Paperwork Reduction Act requires the agency to manage effectively and efficiently its information collections so that they are the least burdensome necessary to achieve the stipulated objectives.

Because OIG does not initiate legislation or, generally, regulations, OIG legislative and regulatory review program is reactive to the legislative and regulatory proposals developed by others. Accordingly, no independent legislative and regulatory review agenda has been established.

### **3. Audit Agenda.**

#### **a. Introduction**

The primary objectives of the OIG audit agenda is to promote long-term efficiency and effectiveness in the administration and operation of the Commission and to protect against fraud and abuse. The audit agenda and priorities for OIG are determined based on the following factors:

- Adequacy of internal control systems as indicated by vulnerability assessments and internal control reviews recommended by OMB Circular A-123;
- Changes in the program conditions or particular vulnerability of the organization, program, activity, or function to problems or deficiencies;
- Current and potential dollar magnitude and likely benefits of a review on the efficiency or effectiveness of CFTC programs and operations;
- Management priorities and improvements that may be possible;
- Results of audits of CFTC programs and operations by other Federal agencies; and
- Availability of audit resources and the potential opportunity costs to the agency.

#### **b. Annual Audits**

The following required audits are performed on an annual basis.

##### **Audit of Compliance with the Federal Managers' Financial Integrity Act, FMFIA.**

In support of OMB Circular A-123 (Revised), the Inspector General will evaluate, provide technical assistance and advise the agency head as to whether the agency's review and evaluation process was conducted in accordance with the circular's requirements.

## Evaluation of the CFTC Information Security Management Act, FISMA.

The Federal Information Security Management Act requires the Inspector General or his designee to perform annual independent evaluations of the information security program and practices of the agency.

## Audit of CFTC Financial Statements.

In FY 2002, Congress passed the Accountability of Tax Dollars Act. The Act requires the CFTC, along with numerous other Federal entities, to have its financial statements audited annually. To this end, OIG has engaged a contractor to provide the audit effort required to enable the contractor to render an opinion on the agency's financial statements for each fiscal year in accordance with generally accepted auditing standards, Government Auditing Standards and OMB Bulletin 01-02.

### **c. Other Audits.**

OIG intends to focus the balance of its audit resources on the review of the management and operation of the agency and compliance with Congressional mandates. Specifically, OIG intends to continue to monitor the agency's use of contractors from time to time, with an emphasis on contracts for IT services. In addition, OIG intends to focus its efforts with a view to auditing or reviewing activities relating to the most serious management challenges facing the CFTC.

OIG issues an assessment of the most serious management challenges each year for publication in the CFTC Performance and Accountability Report. In the past three years, OIG has identified as management challenges the following areas of concern:

- Modernization of Electronic Market Surveillance
- Expansion of CFTC Oversight into New Markets
- Industry Consolidations
- Exchange Trading Revolutions (*Growth of Derivative Trading*)
- Human Resources Planning
- Challenges in the Marketplace (*Recent innovations in the industry such as the initial public offerings of major Chicago based futures exchanges and futures commission merchants (FCM)*)

OIG will seek to identify issues and to conduct audits and reviews relating to these management challenges. Finally, OIG will stand ready to respond to issues and audit requests as they are received from Congress, the Agency and members of the public or any other source.

**d. Resources Required.**

OIG estimates that approximately one staff year of effort will be devoted over each of the next five years further reviews of the agency's use of contractors. One-half staff year of effort will be devoted over each of the next five years to the "Annual Audits" described above. All other Audits will consume up to one and a half staff years. Because OIG resources can be diverted at any time to an investigation or audit that responds to current concerns or allegations, and must be completed in a timely fashion in order to be of assistance to the Agency or Congress, it is impossible to forecast with complete accuracy how resources will be utilized from year to year.

<p style="text-align: center;"><b>CONTACTING THE OFFICE OF THE INSPECTOR GENERAL</b></p>
--

OIG is located at 1155 21st Street, N.W., Washington, D.C. 20581. The telephone number is (202)418-5110. The facsimile number is (202)418-5522. The hotline number is (202)418-5510. Regular business hours are between 8:30 AM and 5:00 PM, Monday through Friday, except Federal holidays.

**Table 1**

**Reports Issued with Questioned Costs  
(April 1, 2008 – September 30, 2008)**

		Dollar Value Thousands		
	Number	Questioned	Unsupported	
A.	For which no management decision has been made by the commencement of the reporting period	0	0	0
B.	Which were issued during the reporting period	0	0	0
	Subtotals (A + B)	0	0	0
C.	For which a management decision was made during the reporting period	0	0	0
	( I ) dollar value of disallowed costs	0	0	0
	( ii ) dollar value of costs not disallowed	0	0	0
D.	For which no management decision has been made by the end of the reporting period	0	0	0

**Table 2**

**Reports Issued with Recommendations  
That Funds be Put to Better Use  
(April 1, 2008 – September 30, 2008)**

	Number	Dollar Value Thousands
A. For which no management decision has been made by the commencement of the reporting period	0	0
B. Which were issued during the reporting period	0	0
Subtotals (A + B)	0	0
C. For which a management decision was made during the reporting period	0	0
(i) dollar value of recommendations that were agreed to by management	0	0
(ii) dollar value of recommendations that were not agreed to by management	0	0
D. For which no management decision has been made by the end of the reporting period	0	0